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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92063032
Party	Defendant Squeeze Juice Works, LLC
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Submission	Motion to Amend/Amended Answer or Counterclaim
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Boston Juicery, LLC,

Petitioner,

v.

Squeeze Juice Works, LLC,

Registrant.

Cancellation No. 92063032

Mark:

**SQUEEZE JUICE WORKS** Word Mark  
(Registration No. 4,726,293)

**FIRST AMENDED ANSWER TO PETITION FOR CANCELLATION**

The following is the Amended Answer of Registrant Squeeze Juice Works, LLC (hereinafter "Registrant"), a Florida Limited Liability Company, with an address of 675 30th Avenue North, Suite 101, St. Petersburg, Florida 33704, owner of Federal Trademark Registration No. 4,726,293 ("Subject Registration") for the word mark SQUEEZE JUICE WORKS (hereinafter "Registrant's Mark"), by and through its Counsel, Maxey Law Offices, PLLC, to the Petition for Cancellation filed on January 25, 2016 by Boston Juicery, LLC (hereinafter "Petitioner"), and assigned Cancellation No. 92063032.

**THE PARTIES**

1. Registrant is without knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 1 of the Petition for Cancellation. Since Registrant can neither admit nor deny the paragraph as written, Registrant must deny.
2. Admitted.
3. Denied.
4. Denied.

5. Denied.
6. Denied.
7. Registrant admits that on February 28, 2014, Registrant filed a trademark application for the mark SQUEEZE JUICE WORKS. Otherwise Registrant denies the allegations contained in paragraph 7.
8. Admitted.
9. Admitted.
10. Admitted.
11. Registrant admits that Registrant's Letter stated "Our client recognizes that Boston Juicery was in operation prior to the filing of the Federal Trademark Application that matured into the Federal Registration for the SQUEEZE JUICE WORKS® [sic]." Otherwise Registrant denies the allegations contained in paragraph 11.

COUNT I

12. Registrant repeats and realleges each and every response set forth in Paragraphs 1 through 11.
13. Denied.
14. Admitted.
15. Registrant is without knowledge or information sufficient to form a belief as to the truth of allegations regarding Petitioner's goods and services contained in paragraph 15 of the Petition for Cancellation. Since Registrant can neither admit nor deny the paragraph as written, Registrant must deny.
16. Denied.

FURTHERMORE, Registrant sets for the following in support of its position:

17. Petitioner does not have a United States Federal Trademark Registration for the term “SQUEEZE”.
18. Petitioner has never had a United States Federal Trademark Registration for the term “SQUEEZE”.
19. Petitioner does not have a United States Federal Trademark Registration for the term “SQUEEZE JUICE BAR”.
20. Petitioner has never had a United States Federal Trademark Registration for the term “SQUEEZE JUICE BAR”.
21. Prior to the filing of the Application that matured into the Subject Registration, Petitioner used the registered trademark symbol in connection with the term “SQUEEZE”.
22. Prior to the filing of the Application that matured into the Subject Registration, Petitioner used the registered trademark symbol in connection with the term “SQUEEZE JUICE BAR”.
23. After the filing of the Application that matured into the Subject Registration, Petitioner used the registered trademark symbol in connection with the term “SQUEEZE”.
24. After the filing of the Application that matured into the Subject Registration, Petitioner used the registered trademark symbol in connection with the term “SQUEEZE JUICE BAR”.
25. After the registration date of the Subject Registration, Petitioner used the registered trademark symbol in connection with the term “SQUEEZE”.

26. After the registration date of the Subject Registration, Petitioner used the registered trademark symbol in connection with the term “SQUEEZE JUICE BAR”.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

(Failure to State a Claim)

27. Petitioner does not have a proprietary right in the Mark being asserted.

28. Petitioner did not use the term “SQUEEZE JUICE BAR” in the United States in connection with Goods or Services similar to those in the Subject Registration prior to Registrant’s first use of Registrant’s Mark in the United States.

29. Because Petitioner did not use the term “SQUEEZE JUICE BAR” prior to Registrant’s first use of Registrant’s Mark, Petitioner cannot show priority over Registrant.

30. Because a valid ground does not exist for the cancellation of the Subject Registration, the Petition for Cancellation fails to state a claim upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

(Lack of Standing – No Prior Use)

31. Petitioner did not use the term “SQUEEZE JUICE BAR” in connection with Goods or Services similar to those in the Subject Registration prior to Registrant’s first use of Registrant’s Mark.

32. Petitioner did not use the term “SQUEEZE JUICE BAR” in commerce in connection with Goods or Services similar to those in the Subject Registration prior to Registrant’s first use of Registrant’s Mark.

33. Without priority of use of a mark confusingly similar to Registrant’s Mark, Petitioner has no basis for a personal stake in the outcome of the Proceeding.

34. Because Petitioner does not have a personal interest in the continued registration of the Subject Registration, Petitioner lacks standing to file the Petition for Cancellation.

THIRD AFFIRMATIVE DEFENSE  
(Lack of Standing – False Advertising)

35. Registrant repeats and realleges each and every allegation set forth in Paragraphs 17 through 26.

36. Petitioner's use of the registered trademark symbol in connection with the terms "SQUEEZE" and "SQUEEZE JUICE BAR" constitutes false advertising.

37. Petitioner lost any proprietary right it might have had in the terms "SQUEEZE" and "SQUEEZE JUICE BAR" as a result of its false advertising.

FOURTH AFFIRMATIVE DEFENSE  
(Lack of Standing – Unfair Competition)

38. Registrant repeats and realleges each and every allegation set forth in Paragraphs 17 through 26.

39. Petitioner's use of the registered trademark symbol in connection with the terms "SQUEEZE" and "SQUEEZE JUICE BAR" constitutes unfair competition.

40. Petitioner lost any proprietary right it might have had in the terms "SQUEEZE" and "SQUEEZE JUICE BAR" as a result of its unfair competition.

FIFTH AFFIRMATIVE DEFENSE  
(Lack of Standing – Deceptive Trade Practice)

41. Registrant repeats and realleges each and every allegation set forth in Paragraphs 17 through 26.

42. Petitioner's use of the registered trademark symbol in connection with the terms "SQUEEZE" and "SQUEEZE JUICE BAR" constitutes deceptive trade practices.

43. Petitioner lost any proprietary right it might have had in the terms “SQUEEZE” and “SQUEEZE JUICE BAR” as a result of its deceptive trade practices.

SIXTH AFFIRMATIVE DEFENSE  
(Lack of Standing – Fraud)

44. Registrant repeats and realleges each and every allegation set forth in Paragraphs 17 through 26.

45. Petitioner’s use of the registered trademark symbol in connection with the terms “SQUEEZE” and “SQUEEZE JUICE BAR” was deliberate and intended to deceive or mislead the public.

46. Petitioner was advised by Registrant on August 10, 2015, in the form of Correspondence, that Petitioner was falsely marking the term “SQUEEZE” as a Federally Registered Trademark by including the ® symbol with said term on its website, social media accounts, and on packaging.

47. Petitioner continued to falsely mark the term “SQUEEZE” after receipt and review of said Correspondence.

48. Petitioner notified Registrant that it intended to continue the false marking of the term “SQUEEZE” after notification of the fraudulent nature of the false marking.

49. Petitioner’s use of the registered trademark symbol in connection with the terms “SQUEEZE” and “SQUEEZE JUICE BAR” constitutes fraud.

50. Petitioner lost any proprietary right it might have had in the terms “SQUEEZE” and “SQUEEZE JUICE BAR” as a result of its fraud.

SEVENTH AFFIRMATIVE DEFENSE  
(Unclean Hands)

51. Registrant repeats and realleges each and every allegation set forth in Paragraphs 17 through 26.
52. Petitioner's use of the registered trademark symbol in connection with the term "SQUEEZE" was dishonest.
53. Petitioner's use of the registered trademark symbol in connection with the term "SQUEEZE JUICE BAR" was dishonest.
54. Petitioner's use of the registered trademark symbol in connection with the term "SQUEEZE" was fraudulent.
55. Petitioner's use of the registered trademark symbol in connection with the term "SQUEEZE JUICE BAR" was fraudulent.
56. Petitioner's claims are barred in whole or in part by the doctrine of unclean hands.

EIGHT AFFIRMATIVE DEFENSE  
(Abandonment)

57. Petitioner bases its Petition for Cancellation on its use of the term "SQUEEZE JUICE BAR".
58. Petitioner has ceased use of the term "SQUEEZE JUICE BAR" in connection with Goods and Services similar to those listed in the Subject Registration.
59. Petitioner has replaced its use of the term "SQUEEZE JUICE BAR" with "SQUEEZE JUICE COMPANY".
60. Petitioner did not intend to resume use of the term "SQUEEZE JUICE BAR" in connection with Goods and Services similar to those listed in the Subject Registration.



61. Petitioner cannot tack its use of the term “SQUEEZE JUICE COMPANY” onto its use of the term “SQUEEZE JUICE BAR”.

62. Petitioner has abandoned any rights it might have had in the term “SQUEEZE JUICE BAR”.

WHEREFORE, Registrant prays that the Trademark Trial and Appeal Board deny the Cancellation and permit continued registration of Registrant’s Mark in Federal Trademark Registration No. 4,726,293 in the United States Patent and Trademark Office.

Dated: April 15, 2016

Respectfully Submitted,

/William R. Brees/

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Counsel for Registrant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing **FIRST AMENDED**  
ANSWER TO PETITION FOR CANCELLATION has been served via First Class U.S. Mail on  
April 15, 2016, to counsel for Petitioner:

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Dated: April 15, 2016

/William R. Brees/  
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